



## COUNCIL MINUTES

June 1, 2009

The City Council of the City of Mesa met in a Regular Council Meeting in the Council Chambers, 57 East 1st Street, on June 1, 2009 at 5:45 p.m.

### COUNCIL PRESENT

Mayor Scott Smith  
Alex Finter  
Dina Higgins  
Kyle Jones  
Dennis Kavanaugh  
Dave Richins  
Scott Somers

### COUNCIL ABSENT

None

### OFFICERS PRESENT

Christopher Brady  
Debbie Spinner  
Linda Crocker

Invocation by First Reader Tracy Sullivan, Christian Science Church.

Pledge of Allegiance was led by Cole Martindale, Scout Troop No. 553.

Mayor's Welcome.

Mayor Smith welcomed everyone to the meeting. A videotaped presentation was aired that outlined meeting procedures and provided attendees with instructions relative to addressing the Council.

### 1. Take action on all consent agenda items.

All items listed with an asterisk (\*) will be considered as a group by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember or citizen requests, in which event the item will be removed from the consent agenda and considered as a separate item. If a citizen wants an item removed from the consent agenda, a blue card must be completed and given to the City Clerk prior to the Council's vote on the consent agenda.

It was moved by Councilmember Somers, seconded by Councilmember Kavanaugh, that the consent agenda items be approved.

Carried unanimously.

2. Conduct a public hearing and take action on the proposed annual assessments for the Mesa Town Center Improvement District No. 228.

2a. Public hearing on the proposed annual assessments for the Mesa Town Center Improvement District No. 228. **(District 4)**

Mayor Smith stated that at the May 18, 2009 Council meeting, the Council voted that the public hearing regarding this item would be reopened and that the public hearing (2a) and action on the resolution (2b) would be continued to tonight's meeting.

Elizabeth Freeman, owner of Inside the Bungalow Coffee Shop and Yoga Studio, expressed opposition to the three percent rate increase in the FY 2009/10 Mesa Town Center Improvement District No. 288 annual assessments. She commented that because the local economy has stalled and businesses have failed, now is not the time to impose higher assessments on the downtown property owners.

Jon Richards, a property owner in the Town Center area, stated that he is fundamentally opposed to the three percent rate increase because of the current economic conditions and declining property values. He urged the Council to carefully review this matter and consider whether the proposed assessments would, in fact, benefit the downtown area.

Mr. Richards responded to questions posed by Mayor Smith and advised that in 1999, the annual assessments were increased by ten percent. He stated that in 2008, the Downtown Mesa Association (DMA) Board recommended a three percent rate increase per year for each of the next four years. Mr. Richards acknowledged that the Board "struggled" with the proposed rate increases to cover the cost of services, but he urged the Board to reevaluate the timing of the assessments.

Jeff Braucher, owner of JusticeTrax, Inc., in downtown Mesa, indicated that the Council is not imposing the proposed assessments but merely approving the rate increase. He explained that the cost of services provided by the DMA to the Town Center has increased and said that such increases are passed on to the downtown merchants' customers, which could result in those customers shopping elsewhere. Mr. Braucher added that Mesa has significantly reduced its budget as a result of the current economy and suggested that it might be appropriate for the DMA to do the same and forego the rate increases for a period of time.

Mayor Smith advised that the following individuals completed speaker/comment cards in opposition to item 2b, but indicated that they did not wish to address the Council:

Mary Axelsen  
Susan Tibshraeny  
Bill Passey  
Terri McCook  
Dan Alber  
Virginia Berg  
Anne Stehr  
Darvin Harmon  
Nunthaporn Treekamol

There being no additional speakers, Mayor Smith declared the public hearing closed.

2b. Take action on the following resolution:

Approving the proposed annual assessments for the Mesa Town Center Improvement District No. 228. The proposed annual assessments include a three percent rate increase that was approved by Council on March 3, 2008 – Resolution No. 9499. **(District 4)**  
**(CONTINUED FROM THE MAY 18, 2009 COUNCIL MEETING.)**

Councilmember Higgins thanked the speakers for taking the opportunity to address the Council and said that she agreed with many of their comments. She noted that because of current economic conditions, it would be inappropriate for the annual assessments for the Mesa Town Center Improvement District No. 228 to include a three percent rate increase. Councilmember Higgins also stated that she would prefer that this year's assessments remain the same as last year's. She added that for those reasons, she would not vote in support of this item.

Vice Mayor Jones acknowledged the speakers' concerns regarding the three percent rate increase, but stated that he anticipates it will take several years before the economy improves. He also commented that once light rail construction begins in the downtown area, the local merchants would face additional challenges. Vice Mayor Jones further noted that it would be easier to move forward with the three percent rate increase now as opposed to delaying the process for several years.

Councilmember Somers said that although he continues to have concerns with regard to the current economy and the fact that many downtown merchants are struggling financially, he has a greater understanding of this issue now as a result of the presentation that was made by members of the DMB Board at the May 28, 2009 Study Session. He stated that he would support the proposed annual assessments this year, but urged the DMA to make better use of the monies derived from the three percent rate increase to promote, for example, the Town Center area, local businesses and downtown events.

Councilmember Richins remarked that the City of Mesa is a major property owner in the Town Center area and is required to pay its annual assessments just like the other property owners. He explained that the DMA Board, which is comprised of Town Center merchants and property owners, voted to support the proposed rate increase and said that the Council is merely ratifying that decision. Councilmember Richins also commented that if there are merchants and property owners in the downtown area who disagree with the decisions of the DMA Board relative to the annual assessments, he would encourage those individuals to work with the DMA to change the policy. He added that he would support the proposed annual assessments, including the three percent rate increase.

It was moved by Councilmember Kavanaugh, seconded by Vice Mayor Jones, that Resolution No. 9499 be adopted.

Mayor Smith stated that were it not for the statutory requirements of the State of Arizona, the Council would not be taking action on this item. He concurred with Councilmember Richins' comments that the DMA Board is the entity that voted to increase the Mesa Town Center's annual assessments and that the Council is simply affirming that action. Mayor Smith also noted that based on the information he heard tonight, the DMA Board did engage in discussion and debate regarding the three percent rate increase. He further commented that he would support the motion because, in his opinion, it is not the City's role to "micromanage" an issue that has been adequately debated at the DMA level.

In response to questions from Councilmember Higgins, Tom Verploegen, President of the DMA, clarified that in 2007 and 2008, the DMA Board debated and discussed the three percent rate increase. He explained that in 2008, the Council approved a three-year plan to increase the assessment by three percent per year and said this would be the second year for the increased assessment. Mr. Verploegen added that although the assessment is scheduled to increase in FY 2010/11 and FY 2011/12, because of current economic conditions and the legitimate concerns expressed by the speakers tonight, it might be appropriate for the Boardmembers to revisit this issue.

Councilmember Finter expressed opposition to the motion. He also thanked the DMA and its Boardmembers for their efforts and hard work with regard to the revitalization of the Town Center area.

Mayor Smith called for the vote.

Upon tabulation of votes, it showed:

AYES - Smith-Jones-Kavanaugh-Richins-Somers

NAYS - Finter-Higgins

Mayor Smith declared the motion carried by majority vote and Resolution No. 9499 adopted.

3. Conduct a public hearing on the proposed Fiscal Year 2009-10 Budget Plan.

Mayor Smith announced that this is the time and place to conduct a public hearing regarding the proposed Fiscal Year 2009-10 Budget Plan.

Mayor Smith explained that the Council's action to adopt the tentative budget satisfies the statutory requirements of the State of Arizona that the City establish the maximum amount of the 2009-10 budget.

Walter Vance, representing the Mesa Fraternal Order of Police (FOP), expressed concern that in January of this year, Mesa police officers received a 2% pay cut and that effective July 1, 2009, merit increases would be suspended for one year. He stated that the FOP's top priority is to maintain the 5% merit increases for its police officers to ensure that they do not seek employment in other communities that offer higher salaries.

There being no additional speakers, Mayor Smith declared the public hearing closed.

4. Take action on the adoption of the tentative proposed Fiscal Year 2009-10 Budget Plan.

It was moved by Vice Mayor Jones, seconded by Councilmember Kavanaugh, that the Council tentatively adopt the legal three-page budget (See Attachment 1) for the City of Mesa for Fiscal Year 2009-10 in the amount of \$928,540,835 for the Operating portion and \$208,682,013 for the scheduled Bond Capital Improvements, for a total City budget appropriation of \$1,137,222,848.

Carried unanimously.

\*5. Approval of minutes of previous meetings as written.

Minutes from the May 18, 2009 Council meeting.

6. Take action on the following liquor license applications:

\*6a. Black Angus Steakhouse

New Restaurant License for Black Angus Steakhouse, 6902 East Hampton Avenue, Taurian BA, LLC – Amy Schwartz-Cuatto, Agent. The previous Restaurant License held at this location by ARG Enterprises Inc. will revert back to the State. **(District 6)**

\*6b. Bluemoon

New Restaurant License for Bluemoon, 1933 West Main Street, Suite 1H, Bluemoon LLC – Thang Buu Nguyen, Agent. The previous Restaurant License held at this location by Nicolas O. Rodriguez will revert back to the State. **(District 3)**

\*6c. Mariscos Vuelve La Vida #2

New Restaurant License for Mariscos Vuelve La Vida #2, 1328 West University Drive, Tellez Restaurant Investments Inc. – Theresa June Morse, Agent. The previous Restaurant License held at this location by Everardo Rubio will revert back to the State. **(District 1)**

\*6d. Nunthaporn's Thai Cuisine

New Restaurant License for Nunthaporn's Thai Cuisine, 17 West Main Street, Nunthaporn LLC – Nunthaporn Treekamol, Agent. No previous liquor license at this location. **(District 4)**

7. Take action on the following contracts:

\*7a. Purchase of Five (5) 764/870 MHz Dual Band Mobile Radios for the Fire Department.

The Business Services Department recommends authorizing purchase from the City of Phoenix contract with Motorola at \$25,164.20, including applicable Mesa sales tax. **(Citywide)**

\*7b. Ratification of Purchase and Installation of Replacement Carpeting in Communications' 911 Dispatch Center for the Facilities Maintenance Department.

The Business Services Department recommends ratification of the purchase from the State contract with Continental Flooring Company at \$68,485.05, including applicable contractor tax. **(Citywide)**

\*7c. Purchase of Two (2) Replacement Fire Pumper Trucks for the Fire Department (Fire Bond Funded).

The Business Services Department recommends authorizing purchase from Pierce Manufacturing, Inc. at \$1,083,297.65, including applicable use tax. **(Citywide)**

\*7d. Upgrade of Sulfide Control Stations. **(Districts 2, 3, 4 and 6)**

City Project No. 02-364-001. This project will rehabilitate four of the City's existing sulfide control stations that have deteriorated to the extent that the ferrous chloride storage tanks, piping, liner for the chemical containment area, controls and electronics need replacement. This project will also install leak detection ports to detect any fluid that may have leaked from the pipe. The stations to be upgraded are as follows: Southwest Water Reclamation Plant (SEWRP) Sulfide Control Station at 6312 East Baseline Road, Horne Sulfide Control Station at 1103 South Horne, Alma School Sulfide Control Station at 2713 South Alma School Road and Falcon Field #5 Sulfide Control Station at 3522 East University Drive.

Recommend award to the low bidder, MGC Contractors Inc., in the amount of \$922,749.00 plus an additional \$92,274.90 (10% allowance for change orders) for a total award of \$1,015,023.90. Funding is available in the adopted FY 08/09 Wastewater Capital Bond Program. The project may also be partially funded with a 2% interest loan from the American Recovery and Reinvestment Act of 2009 (ARRA) through the State's Water Infrastructure Finance Authority (WIFA). As a condition of receiving the WIFA funding, this project must be "shovel ready" by June 15, 2009, meaning that the contract must be awarded by that date to qualify for the ARRA funding.

\*7e. Replace City Well No 11, located at 31 East 3<sup>rd</sup> Place. **(District 4)**

City Project No. 05-056-003. This project will replace a well in downtown Mesa, which has deteriorated and become unusable. Equipping of the well for pumping into the water system will be completed with a future project once the well is drilled and the well production is determined.

Recommend award to the low bidder, Zim Industries, Inc., in the amount of \$892,040.00 plus an additional \$89,204.00 (10% allowance for change orders) for a total award of \$981,244.00. Funding is available in the adopted FY 08/09 Water Capital Bond Program. This project may be funded with a \$500,000 grant and a 2% interest loan, both from the American Recovery and Reinvestment Act of 2009 (ARRA) through the State's Water Infrastructure Finance Authority (WIFA). As a condition of the WIFA funding, this project must be "shovel ready" by June 15, 2009, which means ready for construction.

\*7f. Northwest Wastewater Reclamation Plant (NWWRP) Pump Replacement, located at 960 North Riverview. **(District 1)**

City Project No. 07-021-001. The City pumps reclaimed water (effluent) from the NWWRP, located at the southeast corner of the intersection of the 101 and the 202 Freeways, to the GRUSP facility, located north of the Salt River and east of Gilbert Road, for the purpose of groundwater recharge. This project will replace three pumps with updated equipment and the installation of enhanced control wiring. The replacement will provide the plant with reliable, locally supported equipment.

Recommend award to the low bidder, Commonwealth Electric Company of the Midwest, in the amount of \$217,300.00 plus an additional \$21,730.00 (10% allowance for change orders) for a total award of \$239,030.00. Funding is available in the Adopted FY 08/09 Wastewater Capital Bond Program. This project may also be funded with a \$126,000 grant and a 2% interest loan, both from the American Recovery and Reinvestment Act of 2009 (ARRA) through the State's Water Infrastructure Finance Authority (WIFA). In order to obtain federal stimulus dollars for this project, the project must be "shovel ready" by June 15, 2009.

- \*7g. Police Department Uninterruptible Power Supply System Replacement, located at 130 North Robson. **(District 4)**

City Project #08-923-002. This project will replace the existing Uninterruptible Power Supply System (UPS), including associated electric improvements to accommodate the upgrade at the Main Police Building located at 130 North Robson. A UPS is capable of using batteries to power the systems connected to it in the event of a power outage, without interruption, until the generator comes online or utility power is restored.

Recommend award to the low bidder, Wilson Electric Services Corporation, in the amount of \$28,333.95 plus an additional \$2,833.40 (10% allowance for change orders) for a total award of \$31,167.35. Funding is available in the Preliminary FY 09/10 Police Operating Budget.

- \*7h. Concrete Replacement at Fire Station No. 211, located at 2130 North Horne Road. **(District 1)**

City Project No. 09-904-001. This project will replace the concrete on the north, south and west sides of the fire station in the drive lanes used for access by fire trucks and other vehicles. The concrete has deteriorated to a point where replacement is required due to numerous areas that are cracked or broken. This project will remove and replace the deteriorated concrete with new fiber-reinforced concrete.

Recommend award to the low bidder, H.W. Johnson Concrete Construction LLC, in the amount of \$25,916.75 plus an additional \$2,591.68 (10% allowance for change orders) for a total award of \$28,508.43. Funding is available from the Approved FY 08/09 Facility Maintenance Operating Budget.

8. Take action on the following resolutions:

- \*8a. Extinguishing a Public Utilities Easement at 4325 East Southern Avenue – Resolution No. 9493. **(District 6)**

This easement is no longer needed as the design of the property has changed and the property owner has dedicated new easements.

- \*8b. Granting a telecommunications easement to Qwest Corporation on City-owned property at 250 East First Avenue – Resolution No. 9494. **(District 4)**

This easement is necessary to provide telecommunication facilities to the new Municipal Court Building.

- \*8c. Granting an irrigation easement to Salt River Project across City-owned property located at the intersection of Dobson Road and Main Street – Resolution No. 9495. **(District 3)**  
This easement is necessary as Salt River Project’s irrigation facilities were relocated as part of the Light Rail Project.
- \*8d. Extinguish a Public Utility Easement at 1761 West Kiowa Avenue – Resolution No. 9496. **(District 3)**  
  
This easement is being extinguished to allow the construction of a backyard swimming pool.
- \*8e. Authorizing the City to enter into Loan Agreements with the Water Infrastructure Finance Authority (WIFA) for water and wastewater improvements – Resolution No. 9497.
- \*8f. Approving and authorizing the procurement of solar electric generation equipment – Resolution No. 9498.

\*9. Introduction of the following ordinances and setting June 22, 2009, as the date of the public hearing on these ordinances:

- \*9a. Amending various sections of the Mesa City Code regarding the following traffic modifications:

City Code Title 10, Chapter 3

Modify City Code Title 10, Chapter 3, Section 15 to allow all turns to be prohibited at certain times at specified driveways. This section currently only provides for left turn prohibitions.

Prohibiting Turns From Driveways: 10-3-15 (C)

On the east side of Power Road between 8:30 a.m. and 9:00 a.m. and between 3:30 p.m. and 4:00 p.m. school days from the driveway with centerline approximately 360 feet north of Adobe Street. (Power Road south of Brown Road) **(District 5)**

Prohibiting Turns From Driveways: 10-3-15 (D)

On the west side of Alma School Road from the driveway with centerline approximately 330 feet north of 8th Street and on the east side of Alma School Road from the driveway with centerline approximately 213 feet north of 8<sup>th</sup> Street during times when emergency traffic signal preemption at Fire Station #218 is activated. (Alma School Road north of University Drive) **(District 1)**

- \*9b. Amending section 5-10-310 of the Mesa City Code regarding Privilege Tax Licenses, making the license renewal date January 1 annually for all licenses, to be compliant with the Arizona Model City Tax Code.

- \*9c. **Z09-09 (District 6)** 3361 South Signal Butte Road. Located north of Elliot Road on the east side of Signal Butte Road (2.23± ac). Site Plan Review. This request will allow the development of a City of Mesa Fire Station. City of Mesa, owner/applicant.

PHO Recommendation: Approval with conditions.

10. Introduction of the following ordinances relating to utility rates and setting June 22, 2009, as the date of the public hearing on these ordinances:

- \*10a. Modifying rates for electric utility services.
- \*10b. Modifying rates for natural gas utility services.
- \*10c. Modifying rates for wastewater utility services.
- \*10d. Modifying rates for water utility services.
- \*10e. Modifying the Terms and Conditions for the Sale of Utilities.
- \*10f. Modifying the fees and charges for Utility Customers.

11. Items from citizens present.

There were no items from citizens present.

Mayor Smith recounted a recent incident in which a Mesa police officer was severely injured in the line of duty and stated that he was happy to hear that the officer is recuperating and expected to recover from his injuries. He expressed appreciation to Mesa Police and Fire personnel for their dedication and service to the community.

Mayor Smith also acknowledged the recent passing of State Treasurer Dean Martin's wife and newborn son and extended his thoughts and prayers to the Martin family at this difficult time.

12. Adjournment.

Without objection, the meeting adjourned at 6:25 p.m.

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SCOTT SMITH, MAYOR

ATTEST:

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LINDA CROCKER, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Council Meeting of the City Council of Mesa, Arizona, held on the 1<sup>st</sup> day of June 2009. I further certify that the meeting was duly called and held and that a quorum was present.

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LINDA CROCKER, CITY CLERK

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(attachments – 3)